

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION

JOE H. BRYANT, JR.

PLAINTIFF

v.

CIVIL ACTION NO. 3:05cv179-TSL-FKB

MILITARY DEPARTMENT OF THE
STATE OF MISSISSIPPI, BY AND THROUGH
THE MISSISSIPPI AIR NATIONAL GUARD, FRANKLIN E.
CHALK, FREDERICK D. FEINSTEIN, ROY A.
GRAHAM, BILLY JOE GRESSETT, DONALD E.
JONES, LANGFORD L. KNIGHT, F. GREGORY
MALTA, WILLIAM F. PARTEN, ROBERT E.
PIERCE, ROGER E. SHIRLEY, CHARLES F. STEED,
AARON K. WILSON and THOMAS TEMPLE; and
JOHN DOES 1-20

DEFENDANTS

**FINAL JUDGMENT FOR COSTS
IN FAVOR OF MISSISSIPPI AIR NATIONAL GUARD**

CAME BEFORE THE COURT Defendant "Military Department of the State of Mississippi,
by and through the Mississippi Air National Guard," [sic] properly known as Mississippi Air
National Guard's (the "Guard") [344] "Motion to Enforce Mandate as to COL (ret.) Joe H. Bryant
Jr."

Having considered the Guard's Motion, this Court FINDS as follows:

- (1) The Guard prevailed on COL Bryant's appeal of this Court's [47] Memorandum Opinion and Order dismissing all COL Bryant's claims against it. ([342].)
- (2) On April 20, 2010, the Fifth Circuit issued a certified copy of the judgment issued as mandate on appeal in this Action, affirming the judgment of the district court and ordering that "costs on appeal are to be taxed against appellant [COL Bryant]." ([343] at 1-2.)
- (3) On April 27, 2010, the Fifth Circuit approved the Guard's Bill of Costs and awarded the Guard \$147.45 in costs against COL Bryant. ([344-1].)
- (4) To date, COL Bryant has not paid the Guard any of the \$147.45 in costs he owes. ([344-2].)

The law entitles the Guard to enforcement of the cost award in its favor. *See Riddle & Co. v. Mandeville*, 10 U.S. 86, 86 (1810) (“The court below is always competent to award costs..., and, in case of a mandate, may issue execution herefor”); *see also Cochran v. Schell*, 107 U.S. 625, 628 (1883) (“When the mandate of this court goes to the court below, it is necessary that that court, with a view to execution, should enter a further judgment in accordance with the mandate, covering the direction of this court as to interest and as to costs in this court on the writ of error”).

WHEREFORE, PREMISES CONSIDERED, it is hereby finally ADJUDGED and ORDERED that:

- (1) The Guard is granted JUDGMENT from and against Joe H. Bryant Jr. in the amount of \$147.45; and
- (2) Pursuant to Fed. R. Civ. P. 54(b), the Court makes an express determination that there is no just reason for delay and upon its express direction hereby directs that this entry of Judgment as to fewer than all the Parties and fewer than all the claims is FINAL as to the Guard and Joe H. Bryant Jr.

SO ADJUDGED and ORDERED, this the 14th day of September, 2010.

/s/Tom S. Lee

UNITED STATES DISTRICT JUDGE